

Update: Managing a Trial Under The Controlled Substances Act

CHAPTER 15

Sentencing

15.7 Conditional Sentences Under §7411

C. Procedural Requirements for §7411 Sentences

Insert the following bulleted information in the middle of page 347 immediately before the beginning of subsection (D):

- If a defendant is discharged from probation and the charges against the defendant are dismissed under §7411, there is no adjudication of guilt, and the defendant's probationary period cannot be used "for purposes of disqualifications or disabilities imposed by law upon conviction of a crime" MCL 333.7411(1).

A defendant's former §7411 status is not a "felony conviction" and may not be used to deny an individual's application for a concealed pistol permit. *Carr v Midland County Concealed Weapons Licensing Board*, ___ Mich App ___, ___ (2003). When an individual successfully completes a probationary period imposed under §7411, the statutory provisions clearly explain that "a nonpublic record of an arrest and discharge or dismissal under [MCL 333.7411]" may be furnished only to one or both of the entities listed in the statute and only subject to conditions imposed by the statute for the purposes prescribed by the statute. MCL 333.7411(2). According to the Court,

"[T]he Legislature was very clear that the only purpose for which a case dismissed under §7411 may be used to establish a disqualification or disability imposed by law upon conviction of a crime is to preclude employment by the department of corrections or by a law enforcement agency. [A] proceeding dismissed under that section following the successful fulfillment of the terms and conditions of probation may not [be] used to establish a disqualification or disability under the [concealed pistol licensing act] to obtain a concealed pistol license." *Carr, supra* at ___.